

APPEAL NO. 020533  
FILED APRIL 22, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 19, 2002. The hearing officer resolved the disputed issues before her by determining that the appellant (claimant) did not sustain a compensable injury as a result of repetitive trauma; that the claimant did not have disability; that the date of the alleged injury is \_\_\_\_\_; and that the respondent (carrier) is not relieved from liability under Section 409.002 because the claimant timely reported her alleged injury to her employer pursuant to Section 409.001. The claimant appealed the hearing officer's injury and disability determinations on sufficiency grounds. The file contains no response from the carrier. The hearing officer's determinations that the date of injury is \_\_\_\_\_, and that the carrier is not relieved from liability under Section 409.002 are unappealed and have become final. Section 410.169.

DECISION

Affirmed.

The claimant testified that she had sustained an injury to both of her hands, wrists, and arms while performing her repetitive job duties for the employer; that her injuries were caused by closing and lifting boxes at work, twelve hours a day, four days a week, for approximately five weeks; and that she has not been able to work since September 8, 2000, because of her injuries. The carrier presented evidence to support its assertion that the claimant did not sustain a work-related injury or have disability; that the claimant had only worked at the job she alleges caused her injuries for a total of seven twelve-hour shifts over a period of sixteen or seventeen days; that she never worked at that job more than two days in a row; and that the job she was performing was not repetitive in nature.

The claimant had the burden to prove that she sustained a compensable injury. That issue presented a question of fact for the hearing officer. There is conflicting evidence in this case. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As the finder of fact, the hearing officer has the responsibility to resolve the conflicts and inconsistencies in the evidence and to decide what facts the evidence has established. In this instance, the hearing officer specifically noted that the claimant's testimony was not credible. A fact finder is not bound by medical evidence where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. Rowland v. Standard Fire Ins. Co., 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). The hearing officer was acting within her province as the fact finder in discounting the claimant's evidence. Nothing in our review of the record reveals that the hearing officer's determination that the claimant did not sustain a compensable injury is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain

v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm her determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE NORTH RIVER INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PAUL DAVID EDGE  
6404 INTERNATIONAL PARKWAY, SUITE 1000  
PLANO, TEXAS 75093.**

---

Elaine M. Chaney  
Appeals Judge

CONCUR:

---

Thomas A. Knapp  
Appeals Judge

---

Terri Kay Oliver  
Appeals Judge